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IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

LPA No. 153 of 2024
Reserved on: 30.06.2026
Decided on : 03.07.2026
Uploaded on: 03.07.2026

Meena Arora ... Appellant

Versus

State of HP and others …Respondents.

Coram

Hon'ble Mr. Justice G.S. Sandhawalia, Chief Justice.

Hon'ble Mr. Justice Bipin Chander Negi, Judge.

Whether approved for reporting?[1]

For the appellant : Mr. Arun Kumar, Advocate.

For the respondents : Mr. Arsh Rattan, Deputy Advocate General.

Bipin Chander Negi, Judge

By way of the present appeal, challenge has been laid to the judgment dated 1.4.2023 passed in CWPOA No. 730 of 2019, titled *Meena Arora vs. State of H.P. and others*, wherein the challenge laid by the appellant/writ petitioner to the order dated 22.7.2011 imposing a penalty of withholding of one increment on the appellant/writ petitioner has been rejected. The appellant/writ petitioner, while working as TGT (NM) in Government Middle School Kallari, GSSS Ghumarwin, District Bilaspur, was charge-sheeted vide office order dated 6.4.2005. In pursuance thereto the

[1] *Whether the reporters of the local papers may be allowed to see the Judgment?* Yes

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Director/respondent No. 2 had ordered an inquiry. One Sh. Yogesh, i.e. Joint Director (Higher Education), was appointed as an Inquiry Officer to hold the inquiry. Upon conclusion of the inquiry, an inquiry report dated 11.10.2006 had been submitted by the aforesaid Inquiry Officer. As per the inquiry report, the appellant/writ petitioner was stated to have contravened the Conduct Rules. Based upon the same, a penalty of withholding three increments with cumulative effect was imposed upon the appellant/writ petitioner vide memorandum dated 18.4.2007.

2. Feeling aggrieved by the same, the appellant/writ petitioner had laid a challenge to the impugned memorandum dated 18.4.2007 by filing OA No. 1283 of 2007 before the erstwhile Himachal Pradesh State Administrative Tribunal. In the aforesaid OA, the contention raised was that the order dated 18.4.2007 had been issued by the respondents without supplying the inquiry report and without issuing a show-cause notice. In the aforesaid backdrop, vide order dated 6.6.2007, at the request of the learned counsel appearing for the appellant/writ petitioner, the Original Application bearing No. 1283 of 2007 was directed to be considered as a representation by the Principal Secretary (Education) to the Government of Himachal Pradesh, with a direction to decide the same within a period of six weeks after hearing the appellant/writ petitioner in person.

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3. Post disposal of OA No. 1283 of 2007 filed by the appellant/writ petitioner in view of the order dated 6.6.2007 passed by the erstwhile Himachal Pradesh State Administrative Tribunal, the representation was considered by the Principal Secretary (Elementary Education) to the Government of Himachal Pradesh. The representation was decided vide order dated 20.7.2007. The Principal Secretary (Elementary Education) to the Government of Himachal Pradesh, in the order dated 20.7.2007, observed that the appellant/writ petitioner had preferred an appeal against the penalty imposed vide memorandum dated 18.4.2007 and, hence, concluded that, since appropriate orders would be passed in the appeal so preferred, there was no need to decide the representation.

4. Feeling aggrieved by the order dated 20.7.2007, whereby effectively no order had been passed on the representation of the appellant/writ petitioner in pursuance of the order dated 6.6.2007 passed by the erstwhile Himachal Pradesh State Administrative Tribunal, whereby Original Application No. 1283 of 2007 filed by the appellant/writ petitioner had been ordered to be treated as a representation to be decided by the Principal Secretary (Education) to the Government of Himachal Pradesh, an Original Application was preferred laying challenge to the order dated 20.7.2007. The said Original Application was transferred to this Court and registered as CWP-T No. 88 of 2009. The same was decided vide judgment dated

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21.2.2011, whereby, with the consent of the parties, the order dated 20.7.2007 was quashed and set aside and the Principal Secretary (Elementary Education) to the Government of Himachal Pradesh was directed to decide the representation as per the order dated 6.6.2007 passed by the H.P. State Administrative Tribunal in OA No. 1283 of 2007. It is in pursuance of the aforesaid judgment that the Principal Secretary (Education) to the Government of Himachal Pradesh considered the representation of the appellant/writ petitioner in terms of the order dated 6.6.2007.

5. Upon consideration of the representation, an order dated 22.7.2011 was passed by the Principal Secretary (Education) to the Government of Himachal Pradesh. By virtue of the order dated 22.7.2011, the penalty of withholding three increments with cumulative effect imposed upon the appellant/writ petitioner in terms of the memorandum dated 18.4.2007 was reduced, as it was observed that the penalty imposed upon the appellant/writ petitioner was not commensurate with the charges levelled against her. The penalty imposed was held to be harsh. The same was reduced to withholding of one increment. The order dated 22.7.2011 was a subject matter of challenge in CWPOA No. 730 of 2019, titled *Meena Arora vs. State of H.P. and others* wherein the impugned judgment dated 1.4.2023 which is a subject matter of challenge in the present appeal has been passed.

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6. In the order dated 22.7.2011, a categorical finding, after perusal of the record, had been returned to the effect that the charges levelled against the petitioner had been established and that the prescribed procedure had been followed while imposing the penalty. The writ Court, in the impugned judgment dated 1.4.2023, has categorically observed that there exists overwhelming evidence on record substantiating the charges levelled against the appellant/writ petitioner. Qua the finding so returned and the procedure followed in the inquiry, no infirmity/illegality had been observed by the writ Court in its impugned judgment dated 1.4.2023. In the impugned judgment, it has been observed that, in pursuance of the order dated 21.2.2011 passed in CWP-T No. 88 of 2009, the appellant/writ petitioner had been heard in person. A detailed speaking order had been passed vide order dated 22.7.2011. Further, the writ Court, in the impugned judgment, has correctly observed that the punishment, as modified by the order dated 22.7.2011, is not disproportionate; rather, it is a lenient punishment for the proved misconduct of the appellant/writ petitioner. Thereafter, the appellant's review petition which came to be dismissed on 16.06.2023.

7. Heard learned counsel for the parties and perused the pleadings as well as the record.

8. The only contention raised on behalf of the appellant/writ petitioner in the appeal at hand is qua the inquiry report not been

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furnished to the delinquent employee before the imposition of the penalty initially vide memorandum dated 18.4.2007.

9. The aforesaid question alongwith other incidental questions came up for consideration before the apex court in ***ECIL v. B. Karunakar, (1993) 4 SCC 727 .*** The questions posed therein and the answers thereto are being reproduced hereinbelow;

> **2.**The basic question of law which arises in these matters is whether the report of the enquiry officer/authority who/which is appointed by the disciplinary authority to hold an inquiry into the charges against the delinquent employee, is required to be furnished to the employee to enable him to make proper representation to the disciplinary authority before such authority arrives at its own finding with regard to the guilt or otherwise of the employee and the punishment, if any, to be awarded to him. This question in turn gives rise to the following incidental questions:
>
> (*i*) Whether the report should be furnished to the employee even when the statutory rules laying down the procedure for holding the disciplinary inquiry are silent on the subject or are against it?
>
> (*ii*) Whether the report of the enquiry officer is required to be furnished to the delinquent employee even when the punishment imposed is other than the major punishment of dismissal, removal or reduction in rank?
>
> (*iii*) Whether the obligation to furnish the report is only when the employee asks for the same or whether it exists even otherwise?
>
> (*iv*) Whether the law laid down in *Mohd. Ramzan Khan case* will apply to all establishments — Government and non-Government, public and private sector undertakings?
>
> (*v*) What is the effect of the non-furnishing of the report on the order of punishment and what relief should be granted to the employee in such cases?

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(*vi*) From what date the law requiring furnishing of the report, should come into operation?
(*vii*) Since the decision in *Mohd. Ramzan Khan case* has made the law laid down there prospective in operation, i.e., applicable to the orders of punishment passed after November 20, 1990 on which day the said decision was delivered, this question in turn also raises another question, viz., what was the law prevailing prior to November 20, 1990?

29. Hence it has to be held that when the enquiry officer is not the disciplinary authority, the delinquent employee has a right to receive a copy of the enquiry officer's report before the disciplinary authority arrives at its conclusions with regard to the guilt or innocence of the employee with regard to the charges levelled against him. That right is a part of the employee's right to defend himself against the charges levelled against him. A denial of the enquiry officer's report before the disciplinary authority takes its decision on the charges, is a denial of reasonable opportunity to the employee to prove his innocence and is a breach of the principles of natural justice.

30. Hence the incidental questions raised above may be answered as follows:

[i] Since the denial of the report of the enquiry officer is a denial of reasonable opportunity and a breach of the principles of natural justice, it follows that the statutory rules, if any, which deny the report to the employee are against the principles of natural justice and, therefore, invalid. The delinquent employee will, therefore, be entitled to a copy of the report even if the statutory rules do not permit the furnishing of the report or are silent on the subject.

[ii] The relevant portion of Article 311(2) of the Constitution is as follows:

"(2) No such person as aforesaid shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges."

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Thus the article makes it obligatory to hold an inquiry before the employee is dismissed or removed or reduced in rank. The article, however, cannot be construed to mean that it prevents or prohibits the inquiry when punishment other than that of dismissal, removal or reduction in rank is awarded. The procedure to be followed in awarding other punishments is laid down in the service rules governing the employee. What is further, Article 311(2) applies only to members of the civil services of the Union or an all-India service or a civil service of a State or to the holders of the civil posts under the Union or a State. In the matter of all punishments both Government servants and others are governed by their service rules. Whenever, therefore, the service rules contemplate an inquiry before a punishment is awarded and when the enquiry officer is not the disciplinary authority the delinquent employee will have the right to receive the enquiry officer's report notwithstanding the nature of the punishment.

[iii] Since it is the right of the employee to have the report to defend himself effectively and he would not know in advance whether the report is in his favour or against him, it will not be proper to construe his failure to ask for the report, as the waiver of his right. Whether, therefore, the employee asks for the report or not, the report has to be furnished to him.

[iv] In the view that we have taken, viz., that the right to make representation to the disciplinary authority against the findings recorded in the enquiry report is an integral part of the opportunity of defence against the charges and is a breach of principles of natural justice to deny the said right, it is only appropriate that the law laid down in *Mohd. Ramzan case* should apply to employees in all establishments whether Government or non-Government, public or private. This will be the case whether there are rules governing the disciplinary proceeding or not and whether they expressly prohibit the furnishing of the copy of the report or are silent on the subject. Whatever the nature of punishment, further, whenever the rules require an inquiry to be held, for inflicting the punishment in question, the delinquent employee should have the benefit of the report of the enquiry officer before the disciplinary authority records its findings on the charges

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levelled against him. Hence question (*iv*) is answered accordingly.

[v] The next question to be answered is what is the effect on the order of punishment when the report of the enquiry officer is not furnished to the employee and what relief should be granted to him in such cases. The answer to this question has to be relative to the punishment awarded. When the employee is dismissed or removed from service and the inquiry is set aside because the report is not furnished to him, in some cases the non-furnishing of the report may have prejudiced him gravely while in other cases it may have made no difference to the ultimate punishment awarded to him. Hence to direct reinstatement of the employee with back-wages in all cases is to reduce the rules of justice to a mechanical ritual. The theory of reasonable opportunity and the principles of natural justice have been evolved to uphold the rule of law and to assist the individual to vindicate his just rights. They are not incantations to be invoked nor rites to be performed on all and sundry occasions. Whether in fact, prejudice has been caused to the employee or not on account of the denial to him of the report, has to be considered on the facts and circumstances of each case. Where, therefore, even after the furnishing of the report, no different consequence would have followed, it would be a perversion of justice to permit the employee to resume duty and to get all the consequential benefits. It amounts to rewarding the dishonest and the guilty and thus to stretching the concept of justice to illogical and exasperating limits. It amounts to an "unnatural expansion of natural justice" which in itself is antithetical to justice.

10. In terms of the law laid down in **1993 (4) SCC 727, titled *Managing Director, ECIL, Hyderabad and others vs. B. Karunakar and others*** the respondents in the case at hand were duty bound to have supplied the inquiry report before the imposition of the penalty vide memorandum dated 18.4.2007. However, in view of the law laid down in the aforesaid judgment solely on this account the penalty

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imposed would not be quashed. As based on the inquiry report, the appellant/writ petitioner would have to show prejudice caused on account of its non-supply and further that furnishing of the report would have made a difference to the result.

11. In the case at hand after conclusion of the inquiry a punishment of withholding three increments with cumulative effect vide memorandum dated 18.4.2007 had been imposed upon the appellant/writ petitioner. Feeling aggrieved, the appellant/writ petitioner had preferred OA No. 1283 of 2007. The same was disposed of vide order dated 6.6.2007. From a perusal of the order dated 6.6.2007, it is evident that a contention qua non-supply of the inquiry report had been raised therein. After recording the contention qua the same vide order dated 6.6.2007, Original Application No. 1283 of 2007 was directed to be treated as a representation to be decided by the Principal Secretary (Education) to the Government of Himachal Pradesh. The said order reads as under:-

> "In brief, the main grievance of the applicant is that the impugned order dated 18th April, 2007 Annexure A-1, has been issued by the respondent without supplying the enquiry report and without issuing show-cause notice.
>
> At the request of learned counsel for the applicant and in the peculiar facts and circumstances of the case, this Original Application itself is directed to be treated as representation to respondent No. 1, i.e., Principal Secretary (Education) to the Government of H.P., Shimla with an observation to decide the same within a period of six weeks after hearing the applicant in person.

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> Till the decision of representation, operation of impugned order dated 18.4.2007 Annexure A-1 is stayed.
>
> The Original Application is finally disposed of in terms of above orders."

12. The representation was considered and disposed of vide order dated 20.7.2007. The order dated 20.7.2007 was assailed in CWP-T No. 88 of 2009, which was decided on 21.2.2011. Vide judgment dated 21.2.2011, the Principal Secretary (Elementary Education) to the Government of Himachal Pradesh was directed to decide the representation as per the order dated 6.6.2007 passed previously in OA No. 1283 of 2007.In pursuance whereto, after the appellant/writ petitioner had been heard in person, vide a speaking order dated 22.7.2011 the punishment was modified/reduced. The same was assailed in CWPOA No. 730 of 2019 wherein the impugned Judgment dated 1.4.2023 was passed.

13. The specific contention raised with respect to the non-supply of the inquiry report in CWPOA No. 730 of 2019 (page 7 of the writ petition whereupon the impugned judgement dated 1.4.2023 has been passed) is as follows:-

> ***(v) That the petitioner was not even supplied the copy of the inquiry report and as such the impugned order is bad as the petitioner was not given any opportunity to represent before imposing the penalty which shows the malafide intention of the authorities to punish the petitioner for no fault of her.***

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14. From a perusal of the aforesaid pleading, it is evident that before the writ Court (CWPOA No. 730 of 2019) a contention qua non-supply of the inquiry report had been raised before imposition of penalty vide memorandum dated 18.4.2007.Initially also in OA No. 1283 of 2007 the same plea had been raised. The same was disposed of vide order dated 6.6.2007 wherein also the plea of non-supply of the inquiry report stands recorded. It was never the contention of the appellant/writ petitioner in CWPOA No. 730 of 2019 that till date the inquiry report in the case at hand has not been supplied and is liable to be quashed on this ground as only the consequential order dated 22.7.2011 was challenged. The appellant/writ petitioner, during the intervening period (6.6.2007 till date), would have been supplied/obtained a copy of the inquiry report. The plea of non-supply of the inquiry report so raised in CWPOA No. 730 of 2019 is bereft of details qua prejudice caused on account of its non-supply to the appellant/writ petitioner and the difference which the furnishing of the report would have made to the result.

15. Even from a perusal of order dated 22.7.2011, it is evident that no comprehensive contention with respect to non-supply of the inquiry report depicting prejudice caused thereby to the appellant/writ petitioner and the effect it would have had on the result in case it had been supplied was raised before the authority deciding the representation. Hence the bare skeletal plea of non-supply of the

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inquiry report in our considered view at this stage deserves to be rejected. Thus having not challenged the inquiry report on this ground in the writ petition, we are of the opinion that the appellant was satisfied with the disposal of his representation and had never pressed for the said relief at any point of time.

16. No other contention has been raised on behalf of the appellant/writ petitioner pointing out any infirmity, illegality, or perversity in the impugned judgment dated 1.4.2023 warranting interference by this Court in the exercise of Letters Patent jurisdiction. Consequently, the present appeal is dismissed being devoid of any merit. Pending miscellaneous application(s), if any, shall also stand disposed of.

(G.S. Sandhawalia)
Chief Justice

(Bipin Chander Negi)
Judge

3rd July, 2026
(Tarun Singh)